



INTERIOR BOARD OF INDIAN APPEALS

Metlakatla Indian Community of the Annette Islands Reserve v.
Acting Assistant Secretary - Indian Affairs

14 IBIA 259 (09/09/1986)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

METLAKATLA INDIAN COMMUNITY,	:	Order Docketing and Dismissing Appeal
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 86-61-A
ACTING ASSISTANT SECRETARY--	:	
INDIAN AFFAIRS,	:	
Appellee	:	September 9, 1986

On August 26, 1986, the Board of Indian Appeals (Board) received a notice of appeal from the Metlakatla Indian Community (appellant), through counsel, LeRoy W. Wilder, Esq., Portland, Oregon. It appears that appellant seeks review of an August 7, 1986, decision of the Acting Assistant Secretary--Indian Affairs concerning the denial of its application for fiscal year 1986 grant funds under the Indian Child Welfare Act, 25 U.S.C. §§ 1931-1934 (1982). The Acting Assistant Secretary's decision states: "This decision is based upon the exercise of discretionary authority and is final for the Department."

The appeal is docketed under the above case name and number which should be cited in all future correspondence or inquiries regarding the matter.

Although appellant did not attach to its notice of appeal a copy of the decision being appealed, the Board received a copy of the August 7, 1986, decision from the Acting Assistant Secretary. The decision was signed by the Acting Assistant Secretary--Indian Affairs and states that it is final for the Department. Decisions of the Acting Assistant Secretary are equivalent to decisions rendered by the Assistant Secretary. See Ute Mountain Ute Tribe v. Acting Assistant Secretary for Indian Affairs, 11 IBIA 168 (1983). Because the Assistant Secretary has the authority to issue decisions final for the Department, the Board does not have general review authority over such decisions, except as they are specially referred to it on a case-by-case basis or through rulemaking. See, e.g., Pueblo of Laguna v. Assistant Secretary--for Indian Affairs, 12 IBIA 80, 90 I.D. 521 (1983); 25 CFR 13.15. This matter has not been so referred to the Board.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Acting Assistant Secretary's August 7, 1986, decision is dismissed.

//original signed
Kathryn A. Lynn
Administrative Judge

//original signed
Anita Vogt
Administrative Judge